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10  
11 BEFORE THE  
12 BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
13 STATE OF CALIFORNIA

14 In the Matter of the Accusation Against:

Case No. 2009-102

15 LANETTE LANGLEY  
2923 Via Libertad  
16 Carlsbad, CA 92010  
Registered Nurse License No. 431040

ACCUSATION

17 Respondent.  
18

19  
20 Ruth Ann Terry, M.P.H., R.N. ("Complainant") alleges:

21 PARTIES

22 1. Complainant brings this Accusation solely in her official capacity as the  
23 Executive Officer of the Board of Registered Nursing ("Board"), Department of Consumer  
24 Affairs.

25 2. On or about January 1, 1988, the Board of Registered Nursing issued  
26 Registered Nurse License Number 431040 to Lanette Langley (Respondent Langley). The  
27 license was in full force and effect at the time of all acts alleged herein and will expire on  
28 June 30, 2010, unless renewed.

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1                   7.       Code section 2765 states:

2                   A plea or verdict of guilty or a conviction following a plea of nolo  
3                   contendere made to a charge substantially related to the qualifications, functions  
4                   and duties of a registered nurse is deemed to be a conviction within the meaning of  
5                   this article. The board may order the license or certificate suspended or revoked, or  
6                   may decline to issue a license or certificate, when the time for appeal has elapsed,  
7                   or the judgment of conviction has been affirmed on appeal or when an order  
8                   granting probation is made suspending the imposition of sentence, irrespective of a  
9                   subsequent order under the provisions of Section 1203.4 of the Penal Code  
10                  allowing such person to withdraw his or her plea of guilty and to enter a plea of not  
11                  guilty, or setting aside the verdict of guilty, or dismissing the accusation,  
12                  information or indictment.

13                  8.       Section 490 of the Code states, in pertinent part:

14                  (a) In addition to any other action that a board is permitted to take against a  
15                  licensee, a board may suspend or revoke a license on the ground that the licensee  
16                  has been convicted of a crime, if the crime is substantially related to the  
17                  qualifications, functions, or duties of the business or profession for which the  
18                  license was issued.

19                  (b) Notwithstanding any other provision of law, a board may exercise any  
20                  authority to discipline a licensee for conviction of a crime that is independent of  
21                  the authority granted under subdivision (a) only if the crime is substantially related  
22                  to the qualifications, functions, or duties of the business or profession for which  
23                  the licensee's license was issued.

24                  (c) A conviction within the meaning of this section means a plea or verdict  
25                  of guilty or a conviction following a plea of nolo contendere. Any action that a  
26                  board is permitted to take following the establishment of a conviction may be taken  
27                  when the time for appeal has elapsed, or the judgment of conviction has been  
28                  affirmed on appeal, or when an order granting probation is made suspending the  
                    imposition of sentence, irrespective of a subsequent order under the provisions of  
                    Section 1203.4 of the Penal Code.

                    ....

                    9.       California Code of Regulations, title 16, section 1444, states:

                    A conviction or act shall be considered to be substantially related to the  
                    qualifications, functions or duties of a registered nurse if to a substantial degree it  
                    evidences the present or potential unfitness of a registered nurse to practice in a  
                    manner consistent with the public health, safety, or welfare. Such convictions or  
                    acts shall include but not be limited to the following:

                    ....

                    (c) Theft, dishonesty, fraud, or deceit.

                    ....

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1                   10.     Section 493 of the Code states:

2                   Notwithstanding any other provision of law, in a proceeding conducted by a  
3 board within the department pursuant to law to deny an application for a license or  
4 to suspend or revoke a license or otherwise take disciplinary action against a  
5 person who holds a license, upon the ground that the applicant or the licensee has  
6 been convicted of a crime substantially related to the qualifications, functions, and  
7 duties of the licensee in question, the record of conviction of the crime shall be  
8 conclusive evidence of the fact that the conviction occurred, but only of that fact,  
9 and the board may inquire into the circumstances surrounding the commission of  
10 the crime in order to fix the degree of discipline or to determine if the conviction is  
11 substantially related to the qualifications, functions, and duties of the licensee in  
12 question.

13                   As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,'  
14 and 'registration.'

15                   11.     Section 482 of the Code states:

16                   Each board under the provisions of this code shall develop criteria to  
17 evaluate the rehabilitation of a person when:

18                   ....

19                   (b) Considering suspension or revocation of a license under Section 490.

20                   Each board shall take into account all competent evidence of rehabilitation  
21 furnished by the applicant or licensee.

22                   12.     California Code of Regulations, title 16, section 1445, states:

23                   ....

24                   (b) When considering the suspension or revocation of a license on the  
25 grounds that a registered nurse has been convicted of a crime, the board, in  
26 evaluating the rehabilitation of such person and his/her eligibility for a license will  
27 consider the following criteria:

28                   (1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

(3) The time that has elapsed since commission of the act(s)  
or offense(s).

(4) Whether the licensee has complied with any terms of parole,  
probation, restitution or any other sanctions lawfully imposed against  
the licensee.

(5) If applicable, evidence of expungement proceedings  
pursuant to Section 1203.4 of the Penal Code.

(6) Evidence, if any, of rehabilitation submitted by the licensee.

1                   13.     Section 492 of the Code states:

2                   Notwithstanding any other provision of law, successful completion of any  
3                   diversion program under the Penal Code, or successful completion of an alcohol  
4                   and drug problem assessment program under Article 5 (commencing with section  
5                   23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any  
6                   agency established under Division 2 ([Healing Arts] commencing with Section  
7                   500) of this code, or any initiative act referred to in that division, from taking  
8                   disciplinary action against a licensee or from denying a license for professional  
9                   misconduct, notwithstanding that evidence of that misconduct may be recorded in a  
10                  record pertaining to an arrest.

11                  This section shall not be construed to apply to any drug diversion program  
12                  operated by any agency established under Division 2 (commencing with Section  
13                  500) of this code, or any initiative act referred to in that division.

14                                   COST RECOVERY

15                  14.     Section 125.3 of the Code provides, in pertinent part, that the Board may  
16                  request the administrative law judge to direct a licensee found to have committed a violation or  
17                  violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
18                  and enforcement of the case.

19                                   CONTROLLED SUBSTANCES

20                  15.     Hydrocodone bitartate/acetaminophen ("Hydrocodone/APAP"), also known  
21                  by the brand names Vicodin, Norco, Zydane, Maxidone, Lortab, Lorcet, Hydrocet, Co-Gesic, and  
22                  Anexsia, is a narcotic Schedule III controlled substance as designated by Health and Safety Code  
23                  section 11056(e)(4), and is a dangerous drug pursuant to Business and Professions Code section  
24                  4022. Hydrocodone is used as a narcotic analgesic in the relief of pain.

25                                   FACTS

26                  16.     Between the dates of September 9, 2005, and October 10, 2006,  
27                  Respondent Langley, while employed as a registered nurse at Scripps Clinic in La Jolla and  
28                  elsewhere, presented fraudulent prescriptions to two pharmacies located in San Diego County and  
29                  thereby illegally obtained approximately two hundred and forty (240) tablets of the controlled  
30                  substance Hydrocodone/ APAP, for her personal illegal use.

31                  17.     At the time she began committing the violations and until May 2006,  
32                  Respondent Langley worked for Dr. R., a physician at the Gastroenterology Clinic at Scripps  
33                  Clinic in La Jolla. Respondent Langley's professional functions, qualifications and duties, as a

1 registered nurse working for Dr. R., included calling in prescriptions for controlled substances for  
2 patients as indicated in their physician's orders. Respondent Langley committed the violations by  
3 falsifying her identity and impersonating her registered nurse co-workers when she telephoned in  
4 fraudulent prescriptions for herself, in her true identity, to the pharmacies. Alternatively,  
5 Respondent Langley also similarly falsified her identity and forged the signature(s) of her co-  
6 worker(s) and then faxed in the fraudulent prescriptions for herself, in her true identity.  
7 Respondent Langley then went to said pharmacies, obtained the fraudulently prescribed controlled  
8 substance(s), on approximately seven separate occasions during January through October 2006,  
9 and then, illegally possessed and self-administered the controlled substances.

10           18.     The violations were discovered only after Dr. R. received a letter from the  
11 Department of Justice Bureau of Narcotics Enforcement, dated November 21, 2006, that  
12 requested Dr. R. to review his records to determine if he had, in fact, issued all of the monitored  
13 prescriptions for Hydrocodone to Respondent Langley. In response to the letter, Respondent  
14 Langley's nursing supervisor at Dr. R.'s office, telephoned the pharmacies where Respondent  
15 Langley reportedly filled the prescriptions for Hydrocodone. The pharmacies each told  
16 Respondent's supervisor that Respondent Langley had called in the prescriptions for her true  
17 identity while using her supervisor's name and the name of another co-worker and employee of  
18 Dr. R..

19           19.     Dr. R. then made a complaint to the Board of Registered Nursing regarding  
20 Respondent Langley's unprofessional and fraudulent conduct. The Board of Registered Nursing  
21 authorized an investigation by the State of California, Department of Consumer Affairs, Division  
22 of Investigation (DOI). The DOI Investigator thoroughly investigated the matter, including  
23 retrieving the original prescriptions from the pharmacies involved, and personally interviewing  
24 approximately a dozen percipient witnesses. Respondent Langley admitted to the investigator,  
25 during a taped interview, that she telephoned in prescriptions for herself as described above in  
26 paragraph 17. Respondent Langley also admitted that she self-administered the fraudulently  
27 obtained controlled substances and she usually takes four to five tablets of Hydrocodone each day  
28 to manage her chronic back pain. The DOI Investigator completed a written investigation report

1 and simultaneously referred the matter to the Board of Registered Nursing for professional  
2 discipline against Respondent Langley's registered nursing license and to the San Diego District  
3 Attorney's Office for criminal prosecution.

4           20.     The San Diego District Attorney's Office filed the criminal charges on or  
5 about July 30, 2008. The criminal complaint filed against Respondent Langley alleges the  
6 following felony violations:

7           Count 1 - Penal Code Section 459 - Burglary, on January 27, 2006;

8           Count 2 - Health and Safety Code section 11173(a) -  
9           Obtaining Prescription by Fraud/Deceit,  
          on January 27, 2006 (twenty tablets of Hydrocodone/APAP 5/500);

10          Count 3 - Penal Code Section 459 - Burglary, on February 3, 2006;

11          Count 4 - Health and Safety Code section 11173(a) -  
12          Obtaining Prescription by Fraud/Deceit,  
          on February 3, 2006 (twenty tablets of Hydrocodone/APAP 5/500);

13          Count 5 - Penal Code Section 459 - Burglary, on February 7, 2006;

14          Count 6 - Health and Safety Code section 11173(a) -  
15          Obtaining Prescription by Fraud/Deceit,  
          on February 7, 2006 (fifty tablets of Hydrocodone/APAP 5/500);

16          Count 7 - Penal Code Section 459 - Burglary, on February 17, 2006;

17          Count 8 - Health and Safety Code section 11173(a) -  
18          Obtaining Prescription by Fraud/Deceit, on February 17, 2006  
          (twenty tablets of Hydrocodone/APAP 5/500);

19          Count 9 - Penal Code Section 459 - Burglary, on April 3, 2006;

20          Count 10 - Health and Safety Code section 11173(a) -  
21          Obtaining Prescription by Fraud/Deceit,  
          on April 3, 2006 (fifty tablets of Hydrocodone/APAP 5/500);

22          Count 11 - Penal Code Section 459 - Burglary, on August 7, 2006;

23          Count 12 - Health and Safety Code section 11173(a) - Obtaining  
24          Prescription by Fraud/Deceit, on August 7, 2006 (fifty  
          tablets of Hydrocodone/APAP 5/500);

25          Count 13 - Penal Code Section 459 - Burglary, on October 10, 2006;

26          Count 14 - Health and Safety Code section 11173(a) -  
27          Obtaining Prescription by Fraud/Deceit, on  
          October 10, 2006 (fifty tablets of Hydrocodone/APAP 5/500).

28     ///

1                   21.     On or about October 9, 2008, in San Diego Superior Court Case  
2 No. CD215169 entitled *People v. Lanette Langley*, Respondent Langley pled guilty to one  
3 count of violating Penal Code section 459 (Burglary) (Count 1) and one count of violating  
4 Health and Safety Code section 11173, subdivision (a) (Obtain Controlled Substances by Fraud)  
5 (Count 4). The facts and circumstances underlying the conviction are described above at  
6 paragraphs 16 through 19. Respondent Langley is scheduled to be sentenced for said conviction  
7 on November 12, 2008.

8                                   **FIRST CAUSE FOR DISCIPLINE**

9                                   **(Unprofessional Conduct: Obtain Controlled Substances by Fraud)**

10                   22.     Respondent Langley is subject to disciplinary action pursuant to Code  
11 sections 2761, subdivision (a), on the grounds of unprofessional conduct, as defined in Code  
12 section 2762, subdivision (a), in that in or about September 9, 2005, through October 10, 2006,  
13 while licensed and employed as a registered nurse in San Diego County, California, Respondent  
14 Langley obtained the controlled substance Hydrocodone by fraud, deceit, misrepresentation, or  
15 subterfuge in violation of Health and Safety Code section 11173, subdivision (a), as described  
16 above in paragraphs 16 through 19, which are incorporated herein by reference.

17                                   **SECOND CAUSE FOR DISCIPLINE**

18                                   **(Unprofessional Conduct:**  
19                                   **Dangerous Use of Controlled Substance)**

20                   23.     Respondent Langley is subject to disciplinary action for unprofessional  
21 conduct under section 2761 in conjunction with 2762(b) in that she used controlled substances to  
22 an extent as to be a danger to herself or others, or to an extent as to impair her ability to practice  
23 safely as a registered nurse. The circumstances are described above in paragraphs 16 through 19,  
24 which are incorporated herein by reference.

25                                   **THIRD CAUSE FOR DISCIPLINE**

26                                   **(Unprofessional Conduct: Burglary)**

27                   24.     Respondent Langley is subject to disciplinary action for unprofessional  
28 conduct under section 2761, subdivision (a), in that in or about September 9, 2005, through



1 October 10, 2006, she entered into a pharmacy with the intent to commit a felony therein, to wit,  
2 obtaining controlled substances by fraud and deceit. The circumstances are described above in  
3 paragraphs 16 through 19, which are incorporated herein by reference.

4 FOURTH CAUSE FOR DISCIPLINE

5 (Unprofessional Conduct -  
6 (2008 Conviction of Substantially Related Crimes committed in 2006)

7 25. Respondent Langley is subject to disciplinary action pursuant to Code  
8 sections 490 and 2761, subdivisions (a) and (f), on the grounds of unprofessional conduct, and  
9 Code section 2762, subdivision (c), in that on or about October 9, 2008, in a criminal proceeding  
10 entitled *People v. Langley* in San Diego Superior Court, Case Number CD215169, Respondent  
11 Langley was convicted on her plea of guilty for violating Health and Safety Code section 11173,  
12 subdivision (a) (Obtain Controlled Substance by Fraud) and violating Penal Code section 459  
13 (Burglary), both felonies. Said crimes are substantially related to the qualifications, functions and  
14 duties of a registered nurse. The facts and circumstances underlying said conviction are described  
15 above in paragraphs 16 through 19, which are incorporated herein by reference.

16 PRAYER

17 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
18 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

19 A. Revoking or suspending Registered Nurse License Number 431040, issued  
20 to Lanette Langley.

21 B. Ordering Lanette Langley to pay the Board of Registered Nursing the  
22 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
23 Professions Code section 125.3;

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C. Taking such other and further action as deemed necessary and proper.

DATED: November 5, 2008

*Louella A. West, Deputy Attorney General*  
for RUTH ANN TERRY, M.P.H., R.N.  
Executive Officer  
Board of Registered Nursing  
State of California  
Complainant

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